

ORDINANCE NO. 2024:04

AN ORDINANCE TO AMEND CHAPTER IV OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NEW MILFORD ENTITLED “GENERAL LICENSING” THEREBY AMENDING SECTION 4-19, ENTITLED “COMMERCIAL AND MOVIE FILMING”

WHEREAS, Film Ready New Jersey, an initiative of the New Jersey Motion Picture and Television Commission, is a 5-step certification and marketing program that educates municipalities on the basics of motion picture and television production and enables cities and towns to effectively accommodate on location filming and market their communities as filming destinations; and

WHEREAS, the program sets basic standards for attracting filmmaking and the “film-ready” designation provides an elevated platform for certified communities to promote themselves as filming destinations and connects film and TV professionals with knowledgeable liaisons who can provide access to nearby resources and location information; and

WHEREAS, the Mayor and Council of the Borough of New Milford wish to modify the Borough’s existing Commercial and Movie Filming ordinance to facilitate the Borough’s pursuit of the “film-ready” designation.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of New Milford that Chapter IV, Section 4-19 entitled “Commercial and Moving Filming” be replaced in its entirety as follows:

§ 4-19 COMMERCIAL AND MOVIE FILMING.

§ 4-19.1 Definitions.

FILMING

The taking of still or motion pictures either on film or videotape or similar recording medium, for commercial or educational purposes intended for viewing on television, in theaters or for institutional uses. The provisions of this chapter shall not be deemed to include the "filming" of news stories within the Borough of New Milford.

MAJOR MOTION PICTURE

Any film which is financed and/or distributed by a major motion picture studio, including but not limited to the following:

- a. Universal Pictures.
- b. Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and Bel- Aire.

- c. Paramount, including MTV Films and Nickelodeon Movie.
- d. 20th Century Fox, including Fox Searchlight.
- e. Sony/Columbia.
- f. Disney/Miramax.
- g. MGM/United Artists.
- h. Dreamworks.
- i. Any major streaming service, such as Netflix, Hulu, or Amazon Prime Video.
- j. Any film for which the budget is at least \$5,000,000.
- k. Recurrent weekly television series programming.

NEWS STORIES

Shall mean the reporting or summarizing of information concerning something that has either recently taken place or of current events of general interest and includes such features commonly known as newscasts, news bulletins and news anthology programs.

PUBLIC LANDS

Any and every public street, highway, sidewalk, square, public park or playground or any other public place within the Borough of New Milford which is within the jurisdiction and control of the Borough of New Milford.

§ 4-19.2 Permit Required.

No person shall film or permit filming within the Borough of New Milford without first obtaining a permit, which permit shall set forth the location of such filming and the date or dates when filming shall take place.

- a. Application for Permit. Permits shall be obtained in the office of the Borough Clerk and the application for a permit shall be in a form approved by the Borough Clerk and shall be accompanied by a fee as set forth herein, or as may hereafter be established by ordinance. Permits shall be issued in accordance with the procedures governing the issuance of licenses and permits.
- b. Permit Period. A permit shall be sufficient to authorize outdoor or indoor filming for one film within a period of not more than 10 days beginning on the date of issuance of the permit. If the filming does not take place during the dates specified in the permit due to inclement weather

or other good cause the Borough Clerk may issue a new permit at no additional fee.

- c. Maximum Number of Permits. No more than six such permits may be issued for any location within any calendar year unless a waiver is obtained.

Waivers of section (b) and (c) above may be issued by the Borough Administrator for Major Motion Picture companies.

§ 4-19.3 Conditions for Issuance of Permit.

- a. No permits will be issued by the Municipal Clerk unless applied for prior to three days before the requested shooting date; provided, however, that the Borough Administrator may waive the three-day period if, in his judgment, the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.
- b. No permit shall be issued for filming upon public lands unless the applicant shall provide the Borough of New Milford with satisfactory proof of the following:
 1. Proof of insurance coverage as follows:
 - a) Commercial General Liability \$1,000,000 combined single limit per occurrence, \$3,000,000 aggregate.
 - b) Commercial Auto \$1,000,000 limit
 - c) Worker's Compensation statutory limits.
 - d) Umbrella \$4,000,000 limit
 - c. The Borough of New Milford must be named as additional Insured on any permit applicants insurance policy and this coverage shall be primary and non-contributory.
 - d. An agreement, in writing, whereby the applicant agrees to indemnify and save harmless the Borough of New Milford its employees, officers, elected officials, appointees, and volunteers from any and all liability, expense, claim or damages resulting from the use of public lands.
 - e. The hiring of an off-duty police officer for the times indicated on the permit.
 - f. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Police Department with respect thereto.
 - g. Obtains the permission of the owners where the filming takes place on private property.
 - h. Agrees to comply with all lawful directives issued by the New Milford Police Department, Fire Department and other departments where deemed necessary; and to reimburse the Borough of New Milford for any police, fire or other Borough personnel.
 - i. Delivers to the Borough an escrow deposit in an amount equal to twice the permit fee plus \$500. The Borough shall hold such escrow until one week after the completion of the filming and cleaning up to ensure that the applicant cleans all debris left by or repairs any damage caused by the applicant or the applicant's agents and to pay the Borough for any obligation of the applicant that has not been paid.
 - j. Provides two days' notice to the affected property owners for which the permit is requested as measured along public streets. Such notice shall be in writing and shall advise the property

owner of the date or dates upon which filming is to take place and the location of the premises where the filming is to take place. Such notice shall either be personally served or served by certified mail, return receipt requested, upon the property owners or residents entitled to receive notice, at least 48 hours prior to the commencement of filming. Service by certified mail shall be complete upon the receipt of such mail by the residents and property owners. Upon the written request of the applicant, the Building office shall, within 72 hours, make and certify a list from the current tax duplicates of the addresses of property located within the Borough of New Milford within two hundred (200') feet of the property lines of the premises for which the permit is requested, together with the names and addresses of the record owners thereof. Notice to owners of properties in adjoining municipalities shall be given by personal service or by certified mail; said notice shall also be given to the Clerk of such adjoining municipality. Failure to give notice to a resident or property owner of premises not shown on the list shall not invalidate the permit. Prior to commencing filming, the applicant shall file an affidavit of proof of service with the Borough Clerk.

§ 4-19.4 Filming Regulations.

- a. Interference with Public Activity. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners attributable to such filming. The holder shall avoid any interference with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity on such public lands.
- b. Removal of Equipment and Debris. The holder of a permit shall take all reasonable steps to minimize the creation and spread of debris and rubbish during filming and shall be responsible for removing all equipment, debris, and other rubbish from the filming location upon completion of filming or the expiration of the permit, whichever comes first. Should the holder of the permit fail to remove all equipment, debris and other rubbish within the time period specified, the Borough may remove same at the expense of the applicant and the applicant shall reimburse the Borough for the cost thereof.
- c. Notice to Borough. The applicant shall notify the Borough Clerk at least 72 hours before filming in order to give the Borough Clerk sufficient opportunity to notify the Borough Departments so that they may have an authorized representative inspect the site and take such other measures as may be necessary to protect the public health, safety or welfare.
- d. Public Safety. The holder of the permit shall comply with all lawful directives issued by the New Milford Public Safety Department and comply with all other applicable laws. When, in the judgment of the Director of Public Safety, or his designee, the presence of additional police, fire or code enforcement personnel are required in connection with the filming, the applicant shall reimburse the Borough for the cost of such personnel.
- e. Encroachment Upon Adjoining Property. The holder of the permit shall not conduct filming in such a manner as to preclude access to adjoining properties from the public street or to encroach upon adjoining property without the express written consent from the owner and occupant thereof. Vehicles used in connection with the filming, including vehicles of

personnel associated with such filming, shall be parked off the public right-of-way. Vehicles should not be parked so as to encroach upon private property without the express written consent from the owner or occupant thereof. The Borough of New Milford will tow vehicles parked or located in violation hereof and the applicant thereof shall reimburse the cost to the Borough.

- f. Vehicles. Vehicles used in connection with the filming, including vehicles of personnel associated with such filming, shall be parked off the public right-of-way. Vehicles should not be parked so as to encroach upon private property without the express written consent from the owner or occupant thereof. The Borough of New Milford will tow vehicles parked or located in violation hereof and the owner thereof shall reimburse the cost to the Borough.
- g. On-site Electrician. Where existing electrical power lines are to be utilized by the production, an on-site licensed electrician may similarly be required if the production company does not have a licensed electrician on staff.
- h. Enforcement; Cost of Litigation. The applicant will pay the Borough's reasonable attorney's fees at \$160.00 per hour and costs of litigation if the Borough brings suit to enforce any of its rights.

§ 4-19.5 Denials and Revocation of Permits.

- a. The Borough Administrator may refuse to issue a permit whenever he determines, on the basis of objective facts and after a review of the application and a report thereon by the Police Department and by other Borough agencies involved with the proposed filming site, that filming at the location and/or the time set forth in the application would violate any law or ordinance or would unreasonably interfere with the use and enjoyment of adjoining properties, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.
- b. Further, the Borough reserves the right to require one or more on-site patrolmen in situations where the proposed production may impede the proper flow of traffic, the cost of said patrolman to be borne by the applicant as a cost of production. Where existing electrical power lines are to be utilized by the production, an on-site licensed electrician may be similarly required if the production company does not have a licensed electrician on staff.

§ 4-19.6 Appeals.

- a. Any person aggrieved by a decision of the Borough Administrator denying or revoking a permit or a person requesting relief may appeal to the Borough Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Borough Administrator.
- b. An appeal of the decision of the Borough Administrator shall be filed within 10 days of the Borough Administrator's decision. The Borough Council shall set the matter down for a hearing within 30 days of the day on which the notice of appeal was filed. The decision of the Borough Council shall be in the form of a resolution supporting the decision of the Borough Administrator at the first regularly scheduled public meeting of the Borough Council after the

hearing on the appeal, unless the appellant agrees in writing to a later date for the decision. If such a resolution is not adopted within the time required, the decision of the Borough Administrator shall be deemed to be reversed, and a permit shall be issued in conformity with the application, or the relief shall be deemed denied.

§ 4-19.7 Waivers.

The Borough Administrator may authorize a waiver of any of the requirements, provisions, or restrictions of this chapter if the Borough Administrator determines that a waiver thereof may be granted without endangering the public health, safety and welfare. In determining whether to issue a waiver, the Borough Administrator shall consider the following factors:

- a. Potential traffic congestion at the location.
- b. The applicant's ability to remove the applicant's vehicles and equipment from the public streets or other public property.
- c. The extent to which the applicant is requesting restrictions on the use of public streets or public parking facilities during filming.
- d. The nature of the filming, including whether filming will take place indoors or outdoors, and the proposed hours for filming.
- e. The extent to which the filming may affect adjoining and nearby property owners and occupants.
- f. The Township's prior experience with the applicant, if any.

§ 4-19.8 Schedule of Fees.

The schedule of fees for the issuance of permits authorized by this chapter are as follows:

- a. Basic filming permit: \$100. Where an applicant requests a waiver of the provision of §14-19.3 a. requiring expedited processing of a permit application within 24 hours of the filming date, the basic filming permit fee for processing the application on an expedited basis shall be \$150. In addition, the following fees may be required:
 - b. Daily filming fee payable in addition to the basic filming permit when filming entirely on public property: \$200 per day.
 - c. Daily filming fee payable in addition to the basic filming permit for major motion picture when filming entirely on public property: \$1,000 per day.
 - d. Additional fee for filming on public streets, right-of-way, or inside public buildings: \$400.00 per day.

- e. Filming permit for nonprofit applicants filming for educational purposes, including student films (no daily rate required): \$25.
- f. Filming on private property: no daily filming fee will be imposed.

§ 4-19.9 Exemption From Permit Requirements for News Stories.

The provisions of this section relating to the requirement for, and the issuance of permits shall not apply to the filming of news stories, provided, however, that such filming shall comply with the following regulations:

- a. In residential zones, such filming shall, to the extent possible, occur only Monday through Friday between the hours of 9:00 a.m. and 7:00 p.m. or sundown, whichever is earlier. Notwithstanding the foregoing, "night filming" is not prohibited.
- b. Such filming shall be conducted in such a manner as to minimize the inconvenience or discomfort to adjoining property owners or the interference with previously scheduled activities or normal public activities upon public lands.
- c. Such filming shall be conducted so as to minimize the creation and spread of debris and rubbish during filming and, upon the completion of the filming, those conducting the filming shall remove all equipment, debris and other rubbish from the filming location.
- d. To the extent practical, advance notification shall be furnished to the Borough Clerk of such filming.
- e. Such filming shall comply with all law directives issued by the New Milford Public Safety Department.
- f. Such filming shall be conducted in such manner as not to preclude access to adjoining properties from the public street or to encroach upon adjoining property without the express written permission from the owner and occupant thereof.

§ 4-19.10 Penalty.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000, imprisonment in the county/municipal jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine.

§ 4-19.11 Copies of permit; inspections.

Copies of the approved permit will be sent to the Police and Fire Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Fire Prevention Bureau or other Borough inspectors to inspect the site and the equipment to be used, if deemed necessary. The applicant shall comply with all safety instructions issued by the Fire Prevention Bureau or other Borough inspectors.

§ 4-19.12 Reimbursement of certain costs.

In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough for any lost revenue, such as parking meter revenue, repairs to public property or other revenues that the Borough was prevented from earning because of filming.